

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

BATES ENERGY OIL & GAS, LLC

v.

**COMPLETE OIL FIELD SERVICES
LLC AND SAM TAYLOR**

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CIVIL ACTION SA:17-CV-00808-XR

**DEFENDANT/COUNTER-PLAINTIFF COMPLETE OIL FIELD SERVICES LLC'S
MOTION TO STRIKE DESIGNATION OF RESPONSIBLE THIRD PARTIES**

Defendant/Counter-Plaintiff Complete Oil Field Services, LLC ("COFS") files this Motion to Strike Designation of Responsible Third Parties that is included in Counter-Defendant Equity Liaison Company's Original Answer to Complete Oil Field Service, LLC's First Amended Counterclaim and Counter-claim/Crossclaim Against Bates Energy Oil & Gas, LLC and Complete Oil Field Services, LLC (Dkt. 36).

1. In its answer and counterclaim, ELC attempts to designate 6 parties as "responsible third parties" as defined in Chapter 33 of the Texas Civil Practice & Remedies Code. (Dkt. 36 at 17). However, the designation of a responsible third party requires a motion and order under the express terms of Chapter 33, which provides, "A defendant may seek to designate a person as a responsible third party *by filing a motion for leave* to designate that person as a responsible third party." TEX. CIV. PRAC. & REM. CODE § 33.004 (a) (emphasis added). Because ELC has failed to comply with that statutory provision, its attempted designation should be stricken.

2. Even if ELC had filed a motion for leave, its attempted designation would still be deficient because ELC has failed to plead sufficient facts concerning the alleged responsibility of any of those named in order to satisfy the pleading requirements of the Texas Rules of Civil Procedure. *See* TEX. CIV. PRAC. & REM. CODE § 33.004 (g).

PRAYER

For these reasons, COFS respectfully requests that the Court grant this motion, enter an order striking the subject responsible third party designations, and grant general relief.

Dated: October 24, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on this 24th day of October, 2017, I electronically filed the foregoing instrument with the Clerk of the Court using the CM/ECF system and served the following counsel of record in accordance with the Federal Rules of Civil Procedure:

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